

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**VELCERA, INC. AND FIDOPHARM, INC.**

**Plaintiffs,**

**v.**

**MERIAL LIMITED,  
Defendant,**

*and*

**MERIAL LIMITED AND BASF AGRO, B.V.,  
ARNHEM (NL), WÄDENSWIL BRANCH,**

**Counterclaim-Plaintiffs,**

**v.**

**VELCERA, INC. AND FIDOPHARM, INC.,**

**Counterclaim-Defendants,**

*and*

**VELCERA, INC. AND FIDOPHARM, INC.,**

**Counterclaim-Plaintiffs,**

**v.**

**BASF AGRO, B.V., ARNHEM (NL),  
WÄDENSWIL BRANCH,**

**Counterclaim-Defendant.**

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**JOINT STIPULATION AND ORDER REGARDING PARTIAL STAY AND LIMITED  
MANUFACTURING PROCESS DISCOVERY**

Velcera, Inc. and Fidopharm, Inc. (collectively “Plaintiffs”) and Merial Limited and BASF Agro, B.V., Arnhem (NL), Wädenswil Branch (collectively “Counterclaim-Plaintiffs”), (Plaintiffs and Counterclaim-Plaintiffs collectively the “Parties”) by and through their undersigned counsel, agree, and the Court hereby orders, as follows:

1. Except as provided below, the present action will remain stayed for up to 90 days after the October 27, 2011 status conference, *i.e.*, until January 25, 2012<sup>1</sup>;
2. No later than December 7, 2011, Plaintiffs shall provide discovery sufficient to identify all process(es) for making the fipronil that has been incorporated into any fipronil-containing products that Plaintiffs have made, had made, used, offered to sell or sold in the United States, or imported into the United States (“Limited Manufacturing Process Discovery”). Such Limited Manufacturing Process Discovery shall be limited to:
  - a. A representative sample of any such products and of the fipronil that has been incorporated into such products<sup>2</sup>; and
  - b. Existing business documents sufficient to show:
    - i. all of the ingredients and steps used in the process(es) for making the fipronil;
    - ii. (a) the size and composition of the reactors used to make the fipronil (reactor specifications), and (b) the composition of any coating or lining of the reactors; and

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<sup>1</sup> The parties shall meet and confer to discuss a proposed case schedule based on the tentative targeted Jury Trial date of July 22, 2013 set forth by the Court during the October 27, 2011 Status Conference, and shall, by December 2, 2011, submit a joint report that sets forth either an agreed-upon proposed case schedule or competing proposed case schedules.

iii. whether any corrosion inhibitor is used in the process(es) for making the fipronil.

3. Within thirty (30) days of their receipt of the above-identified Limited Manufacturing Process Discovery, Counterclaim-Plaintiffs will evaluate the Limited Manufacturing Process Discovery provided by Plaintiffs and inform Plaintiffs whether Counterclaim-Plaintiffs believe that they have a good-faith basis to continue to assert against Plaintiffs claims for infringement of U.S. Patent Nos. 6,620,943 and 6,881,848.
4. The Parties shall thereafter confer and, no later than January 25, 2012, the parties shall notify the Court whether the Parties wish to continue with this case.
5. If the Parties notify the Court that they wish to proceed with the case, then Defendants/Counterclaim-Plaintiffs shall, no later than February 8, 2012, serve on Plaintiffs a supplemental response, with respect to U.S. Patent Nos. 6,620,943 and 6,881,848, to Interrogatory No. 1 of Plaintiffs' April 8, 2011 First Set of Joint Interrogatories.
6. The Parties shall attempt to negotiate and file an agreed upon protective order governing the production of Limited Manufacturing Process Discovery. Notwithstanding the above paragraphs, Plaintiff is not obligated to provide any discovery under this Joint Stipulation until the entry of a protective order.

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<sup>2</sup> Counterclaim-Plaintiffs shall be responsible for the costs of shipping samples on terms mutually agreed upon by the parties.

*/s/ John G. Day*

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Dated: November 11, 2011

SO ORDERED this \_\_\_\_\_ day of November, 2011.

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CHIEF UNITED STATES DISTRICT JUDGE